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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL BLAKE DeFRANCE,

Defendant.

**CR 21-29-M-DLC**

**DEFENDANT DeFRANCE'S  
OPPOSED MOTION TO  
VACATE TRIAL DATE TO  
ALLOW FOR APPEAL OR IN  
THE ALTERNATIVE WRIT OF  
MANDAMUS APPLICATION TO  
BE FILED IN THE NINTH  
CIRCUIT**

**MOTION**

COMES NOW Defendant, Mr. DeFrance, by and through his counsel of record, Michael Donahoe, and the Federal Defenders of Montana, and respectfully moves the Court to vacate the bench trial currently set to take place on Monday, August 15, 2022, in Missoula, and to reset it, if necessary, sometime after the intended Ninth Circuit matters are resolved. Mr. DeFrance recognizes that all time consumed by

his appeal is excludable time under both the Speedy Trial Act and the Sixth Amendment. *See* 18 USC §3161(h)(1)(C) (any period of delay resulting from any interlocutory appeal is excludable time).

### **CONTACT WITH OPPOSING COUNSEL**

Government counsel, Jennifer S. Clark and Timothy J. Racicot, oppose this motion on behalf of the United States.

### **CONCLUSION**

WHEREFORE, based on this motion and the brief that supports it, Mr. DeFrance prays the Court will vacate the bench trial currently set for August 15, 2022, and reset it after the Ninth Circuit proceedings have resolved, if necessary.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of August, 2022.

/s/ Michael Donahoe  
MICHAEL DONAHOE  
Deputy Federal Defender  
Counsel for Defendant

**CERTIFICATE OF SERVICE**  
**L.R. 5.2(b)**

I hereby certify that on August 2, 2022, a copy of the foregoing document was served on the following persons by the following means:

  1         CM-ECF

  2         Mail

1.     CLERK, UNITED STATES DISTRICT COURT

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2.     MICHAEL BLAKE DeFRANCE  
       Defendant

/s/ Michael Donahoe  
FEDERAL DEFENDERS OF MONTANA